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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,726	12/21/2001	Dmitry Gryaznov	19903.0013	5110
23517	7590	10/05/2005	EXAMINER	
SWIDLER BERLIN LLP 3000 K STREET, NW BOX IP WASHINGTON, DC 20007			DERWICH, KRISTIN M	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,726

Applicant(s)

GRYAZNOV, DMITRY

Examiner

Kristin Derwich

Art Unit

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-63 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Hereafter patent literature that is referenced as prior art will be cited by column and line number in the form of (column number:line number range). For example, the citation (6:23-27) refers to lines 23-27 of the 6th column in the reference.

2. Claims 1-17, 22-38 and 43-59 rejected under 35 U.S.C. 102(e) as being anticipated by Barton et al. (Barton), U.S. Patent No. 6,944,775.

As per claims 1, 22 and 43:

Barton discloses a method of providing names of computer malwares, comprising the steps of:

receiving a sample of a computer malware (3:46-55);

scanning the computer malware using a plurality of anti-virus scanners, at least some of the anti-virus scanners generating information identifying the computer malware (3:1-5); and

compiling the generated information identifying the computer malware (3:66-4:5).

As per claims 22 and 43, these are system and computer program versions respectively of the claimed apparatus discussed above in claim 1 wherein all claimed limitations have also been addressed and/or cited as set forth above except for computer readable medium, a processor and memory (3:8-39).

As per claims 2, 23 and 44:

Barton discloses a method wherein the information identifying the computer malware comprises a name of the computer malware (4:2-5).

As per claims 3, 11, 24, 32, 45 and 53:

Barton discloses a method wherein the computer malware comprises at least one of a computer virus, a computer worm, or a computer Trojan horse program (4:2-5).

As per claims 4, 12, 25, 33, 46 and 54:

Barton discloses a method further comprising the step of transmitting the compiled information identifying the computer malware (4:11-13).

As per claims 5, 13, 26, 34, 47 and 55:

Barton discloses a method further comprising the step of displaying the compiled information identifying the computer malware (4:18-19).

As per claims 6, 14, 27, 35, 48 and 56:

Barton discloses a method wherein the anti-virus scanner comprises a stand-alone scanner (fig. 1, item 110, 3:42-45).

As per claims 7, 15, 28, 36, 49 and 57:

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Barton discloses a method wherein the anti-virus scanner comprises scanner functionality of a complete anti-virus program (4:17-19, wherein besides scanning it will also repair the problem).

As per claims 8, 16, 29, 37, 50 and 58:

Barton discloses a method wherein the sample comprises a copy of a file that has been identified as infected with a malware (5:5-9).

As per claims 9, 17, 30, 38, 51 and 59:

Barton discloses a method wherein the sample comprises an isolated copy of a malware (5:5-9).

As per claims 10, 31 and 52:

Barton disclose a method wherein the information identifying the computer malware comprises a plurality of names of the computer malware, each name generated by a different anti-virus scanner (3:67-4:3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 18-21, 39-42 and 60-63 rejected under 35 U.S.C. 103(a) as being unpatentable over Barton (U.S. 6,944,775) as applied to claims 1, 22 and 43 above, and further in view of Ji et al. (Ji), U.S. Patent No. 6,728,886.

As per claims 18, 39 and 60:

Barton fails to teach a method wherein the sample of malware is received at a Web site. However, Ji discloses a method wherein scanning can occur on a sample of anything sent via HTTP for e-commerce which constitutes a web site (9:6-13).

As per claims 19, 40 and 61:

Barton fails to teach a method wherein the compiled information identifying the malware from the web site is transmitted. However, Ji discloses a method wherein the information can be transmitted through the internet (4:11-13, 9:31-42).

As per claims 20, 41 and 62:

Barton fails to teach a method wherein the sample is received at an automated email client via email. However, Ji discloses a method wherein emails and their attachments can be samples to be scanned (9:13-15).

As per claims 21, 42 and 63:

Barton fails to teach a method wherein the compiled information identifying the malware from the automated email client via email is transmitted. However, Ji discloses a method wherein malware is identified in an email (9:13-15) and the compiled information is transmitted to an administrator (4:11-13).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the invention of Ji to the invention of Barton because it

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would reduce processing bottleneck issues associated with centralized virus scanning while alleviating the hassle of updating and scanning each host computer individually (Ji; 3:2-8).

Conclusion

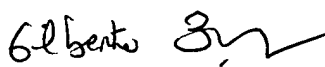
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristin Derwich whose telephone number is 571-272-7958. The examiner can normally be reached on Monday - Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristin Derwich
Examiner
Art Unit 2132


KMD


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